FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.232 OF 2006

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.Satish L.Maneshinde for the applicant.

Mr.P.S.Hingorani APP for the State.

Coram : R.S.Mohite,J

Date : 1.2.2006.

PC

1. This is an application seeking leave to file appeal against an acquittal of the accused for an offence under Section 138 of N.I.Act. The acquittal is on the ground that in the statutory notice, the number of the cheque, the bank of which the cheque was issued, the date of advise relating to the dis-honour of the cheque as well as the reason for dis-honour were totally different from the particulars as mentioned in the complaint. It was sought to be argued by relying upon some judgment that even if the number of the cheque was different, it would

not be fatal to the prosecution under Section 138 of N.I.Act. In the present case, however, it is not only the number is different but even the bank, the date of advise relating to dis-honour and the reason for dis-honour are completely different. It appears that notice was given in respect of some other cheque. It appears that there is fatal mix-up in the matter prior to the lodging of the complaint and the notice was issued in relation to some other cheque. The cheque which was mentioned in the notice has also not been produced in the trial. In the circumstances, view taken is a possible view. Hence, leave is refused and consequently application to stand rejected.

(R.S.Mohite,J)